

EXHIBIT D

UNREDACTED PUBLIC VERSION

In the Matter Of:

IOENGINE vs

PAYPAL HOLDINGS

TELEPHONIC HEAREING

July 23, 2021



1	1	1	3
2	IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE	2	APPEARANCES: (Continued)
3	IOENGINE, LLC,)	3	FREDERICK L. COTTRELL, III, ESQUIRE
4	Plaintiff/Counterclaim) C.A. NO.	4	CHRISTINE D. HAYNES, ESQUIRE
5	Defendant,)	5	RICHARDS LAYTON & FINGER, P.A.
6	v.) 18-452-WCB	6	One Rodney Square
7	PAYPAL HOLDINGS, INC.,)	7	920 North King Street
8	Defendant/Counterclaim)	8	Wilmington, Delaware 19801
9	Plaintiff.)	9	OF COUNSEL:
10	-----	10	KERRY L. TIMBERS, ESQUIRE
11	INGENICO, INC.,)	11	SHARONA H. STERNBERG, ESQUIRE
12	Plaintiff,) C.A. NO.	12	JOEL LEEMAN, ESQUIRE
13	v.) 18-826-WCB	13	SUNSTEIN KANN MURPHY & TIMBERS LLP
14	IOENGINE, LLC,)	14	125 Summer Street
15	Defendant.)	15	Boston, MA 02110
16	-----	16	Attorneys for Plaintiff/
17	IOENGINE, LLC,)	17	Counterclaim Defendant Ingenico,
18	Counterclaim Plaintiff,)	18	and Counterclaim Defendants
19	v.)	19	Ingenico Corp and Ingenico Group
20	INGENICO, INC., INGENICO)	20	SA
21	CORP., and INGENICO S.A.,)	21	- - - - -
22	Counterclaim Defendants.)	22	
23	TELEPHONIC HEARING BEFORE THE	23	
24	HONORABLE WILLIAM C. BRYSON	24	
	TAKEN ON: FRIDAY, JULY 23, 2021		
	Lexitas Reporting		
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2	2	4	4
1	Telephonic Hearing before	1	JUDGE BRYSON: We are here,
2	The Honorable Judge William C. Bryson in	2	once again, on the dispute about
3	the above matter with all participants	3	scheduling and discovery. So, Ioengine
4	attending telephonically, beginning at	4	has proposed a change in the schedule to
5	four p.m. on Friday, July 23, 2021,	5	accommodate their request to add a new
6	before Christina M. Vitale, Certified	6	claim or at least add a new product to
7	Court Reporter and Notary Public.	7	the infringement contentions and
8	APPEARANCES:	8	ultimately to be tried; and PayPal and
9	NEAL C. BELGAM, ESQUIRE	9	Ingenico, as I understand their position,
10	SMITH KATZENSTEIN & JENKINS LLP	10	do not oppose the addition of the
11	1000 West Street, Suite 1501	11	product, but want to have an extension
12	Wilmington, Delaware 19801	12	that is greater than the extension that
13	OF COUNSEL:	13	is proposed by Ioengine.
14	NOAH M. LEIBOWITZ, ESQUIRE	14	So, Mr. Leibowitz, you
15	GREGORY T. CHUEBON, ESQUIRE	15	started the ball rolling, I'll give you a
16	DECHERT LLP	16	moment to lay out your position. I have
17	1095 Avenue of the Americas	17	some questions, but I can intersperse the
18	New York, NY 10036	18	questions. Why don't you tell me and
19	Attorneys for Ioengine, LLC	19	focus, if you will, when you address the
20	JACK B. BLUMENFELD, ESQUIRE	20	issues on where we are on discovery, that
21	MORRIS NICHOLS ARSHT & TUNNELL LLP	21	is a major concern of mine at this point.
22	1201 N. Market Street, Suite 1800	22	MR. LEIBOWITZ: Yes, Your
23	Wilmington, Delaware 19801	23	Honor, thank you, this is Noah Leibowitz.
24	OF COUNSEL:	24	So, Your Honor, in terms of starting at
	JARED BOBROW, ESQUIRE		
	TRAVIS JENSEN, ESQUIRE		
	ORRICK HERRINGTON & SUTCLIFFE LLP		
	1000 Marsh Road		
	Menlo Park, CA 94025-1015		
	Attorneys for Defendant PayPal		
	Holding, Inc.		

<p>37</p> <p>1 be some amount of time built in for that. 2 JUDGE BRYSON: All right. 3 Okay, let me give you an opportunity 4 since I started right in with questioning 5 to make any comments that you would like 6 to make either generally or in response 7 to Mr. Leibowitz' comments. 8 MR. JENSEN: Thank you, Your 9 Honor, and I think I can be fairly brief 10 on this. There is really kind of two 11 main points that I would like to 12 emphasize. One is the first one is that 13 all the parties, including loengine, are 14 proposing some form of modification to 15 the case schedule. In fact, I think 16 loengine has two proposals, one that we 17 just learned about when they filed their 18 paper yesterday, but nobody is here 19 saying let's leave everything alone. 20 JUDGE BRYSON: There is one 21 interested party that is suggesting 22 that's a possibility and that's me. 23 MR. JENSEN: Fair enough. 24 JUDGE BRYSON: Let's keep</p>	<p>39</p> <p>1 don't think with the genesis of the 2 parties' requests, but to just to frame 3 things to Zettle a little bit to help 4 Your Honor sort of understand what is 5 this product, where did it come from. 6 It's important to understand 7 that Zettle is not just an extension or 8 an evolution of the existing accused 9 PayPal Here products. Zettle was 10 independently developed by a European 11 company in Sweden some years ago. It 12 uses different hardware. It's supplied 13 by a different foreign manufacturer than 14 the manufacturers that have any current 15 involvement. It has got its own 16 independently developed app that is used 17 that is separate and different than the 18 PayPal Here app and it provides a 19 different consumer experience. 20 From that perspective I 21 think Your Honor may have picked up on 22 the idea that this in some ways really is 23 a different product and if discovery had 24 closed three months ago under the old</p>
<p>38</p> <p>1 that on the table as a possibility, but 2 go ahead. 3 MR. JENSEN: Okay. So, I 4 think once we are -- I think in 5 recognition of the fact that the parties 6 at least are all requesting some form of 7 scheduling relief the question there 8 becomes what dates to change and by how 9 much should the dates be changed and that 10 really -- 11 JUDGE BRYSON: Because the 12 question is still because I have very 13 much in mind the possibility of not 14 extending the question has to be added 15 whether we should extend the time. Just 16 the fact that the parties are all in 17 favor of an extension of time doesn't 18 mean you get one. 19 MR. JENSEN: I think the 20 answer to that or my response to that is 21 really the second point I wanted to 22 raise, which is to talk about Zettle, 23 which I haven't had quite as much air 24 time as some of the other topics which I</p>	<p>40</p> <p>1 schedule, then there would have had to 2 have been a second case that was filed to 3 bring accusations against Zettle. 4 Obviously, that's not what happened. 5 Discovery was extended. loengine served 6 its discovery requests on the deadline to 7 do so and they have made a decision to 8 try and add Zettle to the case and we 9 don't oppose that provided that there is 10 a realistic extension that is given. 11 The extension that we are 12 proposing, which is I call it 90 days, 13 although some of the dates are actually 14 less than that even including the 15 discovery date, but adding Zettle to this 16 case providing a 90-day extension which 17 would I think address all the concerns 18 that we were talking about before having 19 to do with completing depositions, et 20 cetera, in the I'll call it the original 21 case as well as accounting for the launch 22 of Zettle is what makes the most sense. 23 loengine will be able to go 24 to trial on both of those products</p>